

By: Nichols, et al.

S.B. No. 14

A BILL TO BE ENTITLED

1 AN ACT
2 relating to broadband service or facilities provided by an electric
3 cooperative.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter C, Chapter 181, Utilities Code, is
6 amended by adding Section 181.048 to read as follows:

7 Sec. 181.048. ELECTRIC COOPERATIVE BROADBAND FACILITIES.

8 (a) In this section:

9 (1) "Broadband service" means Internet service with
10 the capability of providing:

11 (A) a download speed of 25 megabits per second or
12 faster; and

13 (B) an upload speed of three megabits per second
14 or faster.

15 (2) "Electric cooperative" means an electric
16 cooperative organized under Chapter 161 or a predecessor statute to
17 Chapter 161.

18 (b) An electric cooperative or an electric cooperative
19 affiliate may construct, operate, and maintain fiber optic cables
20 and other facilities for providing broadband service over, under,
21 across, on, or along real property, personal property,
22 rights-of-way, easements, and licenses and other property rights
23 owned, held, or used by the cooperative. An easement or other
24 property right owned, held, or used by the electric cooperative to

1 provide electricity or other services may also be used to provide
2 broadband service.

3 (c) The rates, terms, and conditions applicable to an
4 electric cooperative or an electric cooperative affiliate for
5 attaching broadband facilities on the electric cooperative's poles
6 must be comparable to the rates, terms, and conditions the electric
7 cooperative applies to other broadband service providers for
8 attaching broadband facilities to the electric cooperative's
9 poles. This subsection does not limit or restrict an electric
10 cooperative or electric cooperative affiliate from installing
11 fiber optic cables in the supply space of the electric
12 cooperative's poles.

13 (d) An electric cooperative or electric cooperative
14 affiliate that provides broadband service shall maintain separate
15 books and records of broadband service operations and the broadband
16 service operations of any subsidiary and shall ensure that the
17 rates charged for provision of electric service do not include any
18 broadband service costs or any other costs not related to the
19 provision of electric service.

20 (e) Subject to Subsection (f), not later than the 60th day
21 before the date the electric cooperative or electric cooperative
22 affiliate begins construction in an easement or other property
23 right that existed before that date of fiber optic cables and other
24 facilities for providing broadband service, the electric
25 cooperative or affiliate must provide written notice to the owners
26 of property in which the easement or property right is located of
27 the intent to use the easement or other property right for broadband

1 service. The electric cooperative or electric cooperative
2 affiliate shall send the notice by first class mail to the last
3 known address of each person in whose name the property is listed on
4 the most recent tax roll of each county authorized to levy property
5 taxes against the property. The notice must state whether any new
6 fiber optic cables used for broadband service will be located above
7 or below ground in the easement or other property right. Not later
8 than the 60th day after the date notice is mailed by the electric
9 cooperative or electric cooperative affiliate, a property owner
10 entitled to notice under this subsection may submit to the
11 cooperative or affiliate a written protest of the intended use of
12 the easement or other property right for broadband service. If an
13 electric cooperative or electric cooperative affiliate receives a
14 timely written protest under this subsection, the electric
15 cooperative or electric cooperative affiliate may not use the
16 easement or other property right for broadband service unless the
17 protestor later agrees in writing to that use or that use is
18 authorized by law.

19 (f) Subsection (e) does not apply to an electric
20 cooperative's or an electric cooperative affiliate's use of an
21 easement or other property right that includes an authorization for
22 the use of the easement or property right for the provision of
23 broadband service or similar communications service.

24 (g) This section may not be construed to:

25 (1) conflict with or limit the provisions of Chapter
26 43; or

27 (2) limit or prohibit an electric cooperative's use of

1 the cooperative's fiber optic cables or other facilities to operate
2 and maintain the cooperative's electric transmission or
3 distribution system or to provide electric service.

4 SECTION 2. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2019.